

TITLE 318 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**Economic Impact Statement**

LSA Document #09-671

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Estimated Number of Small Businesses Subject to this Rule:**

There have been an average of 435 illegal drug labs discovered annually in dwellings in Indiana from 1999 through 2008. Of these properties, an average of 138 were discovered in rental properties, all of which are assumed to be owned by small businesses. The remainder occurred in owner-occupied housing.

Potentially affected small businesses in Indiana listed by NAICS category:

531110: Lessors of Residential Buildings and Dwellings.	1,026
721110: Hotels (except Casino Hotels) and Motels.	787
721191: Bed-and-Breakfast Inns.	43
721310: Rooming and Boarding Houses.	136

There are currently 39 qualified inspectors listed with the department to clean up illegal drug labs. These inspectors are employed by 16 businesses, all of which are small businesses. Business liability insurance is normally obtained by employers, which indicates the cost savings will accrue to these 16 businesses.

562910: Remediation and clean up of contaminated buildings, mine sites, soil, or ground water. 16

The department estimates that approximately 154 small businesses will actually be affected by the proposed rule.

Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur for Compliance:

This rule does not impose any new reporting, record keeping, or administrative requirements. This rule removes two requirements to report planned cleanups to local health departments. The estimated cost savings of this change is limited. Since the effective date of the rule, there has been an average of approximately three cleanups per month, or 36 per year, statewide. At an average of one hour per report at an average rate of \$25 per hour, this change would save about \$900 per year. However, most contractors provide this information during their interaction with the local health department, so the actual cost savings will be considerably less.

Estimated Total Annual Economic Impact on Small Businesses to Comply:

Section Affected	What the Change Does	Economic Impact of Change
318 IAC 1-1-1	Clarifies applicability of rule, includes the exclusion for county property moved from 318 IAC 1-3-4 ; no new requirements	No new costs
318 IAC 1-2-2	Repealed: standard replaced by 318 IAC 1-5-6.2	No new costs
318 IAC 1-2-3	Repealed: standard replaced by 318 IAC 1-5-6.2	No new costs
318 IAC 1-2-6	Clarifies definition of "cleanup", removes a nonfunctional provision	No new costs
318 IAC 1-2-8	Limits the definition of "contaminated property" to dwellings (cleanup would not be required at "nondwelling" properties), and clarifies when the definition can be applied to a single unit	Reduces scope of the rule; potential for reduced cost due to approximately 40 fewer cleanups required per year, unable to quantify at this time due to lack of data on cost of "nondwelling" cleanups
318 IAC 1-2-9.5	Adds statutory definition of "controlled substance"	No cost
318 IAC 1-2-10	Coordinates definition of "decontamination" with definition of "cleanup"	No new costs
318 IAC 1-2-12.5	Adds definition of "final confirmation testing" to clarify concept of inspection	No new costs
318 IAC 1-2-14	Redefines "inspection" as "final confirmation testing"	No new costs
318 IAC 1-2-17	Updates rule to latest version of analytical method	No new costs
318 IAC 1-2-20	Clarifies definition of "qualified inspector"	No new costs
318 IAC 1-2-21	Clarifies that individuals are listed as qualified inspectors and makes conforming changes	No new costs
318 IAC 1-3-1	Repealed: provisions moved to 318 IAC 1-2-8	No new costs
318 IAC 1-3-2	Clarifies responsibilities of owner, when property must be cleaned before reuse; includes the current	No new costs

	requirement moved from 318 IAC 1-3-3 to retain a qualified inspector; no new requirements	
318 IAC 1-3-3	Repealed: provisions moved to 318 IAC 1-3-2	No new costs
318 IAC 1-3-4	Repealed: provisions moved to 318 IAC 1-1-1	No new costs
318 IAC 1-3-5	Clarifies "supervision by a qualified inspector" to make it easier for property owners to do their own cleanup; no new requirements	No new costs
318 IAC 1-4-1	Repealed; requirement moved to 318 IAC 1-5-9	No new costs
318 IAC 1-4-2	Repealed: provisions moved to 318 IAC 1-4-2.2 through 318 IAC 1-4-2.7 and clarified	See below
318 IAC 1-4-2.2	Experience requirement moved from 318 IAC 1-4-2 and clarified; documentation clarified; adds option for equivalent experience; no new requirements	No new costs
318 IAC 1-4-2.3	Formal training requirement moved from 318 IAC 1-4-2 and clarified; documentation clarified; adds option for equivalent training; no new requirements	Possible reduced costs to some new applicants for qualified inspector listing due to ability to use existing training; currently unquantifiable due to lack of data on future applicants and their level of training
318 IAC 1-4-2.4	Refresher training requirement moved from 318 IAC 1-4-2 and clarified; documentation clarified; no new requirements	No new costs
318 IAC 1-4-2.5	IDEM briefing requirement moved from 318 IAC 1-4-2 and clarified; no new requirements	No new costs
318 IAC 1-4-2.6	Examination requirement moved from 318 IAC 1-4-2 ; no new requirements	No new costs
318 IAC 1-4-2.7	Liability insurance requirement moved from 318 IAC 1-4-2 ; removes requirement for additional \$3M pollution prevention insurance coverage; no new requirements	Reduced costs est. \$1-5K per contractor annually for the 16 contractors affected; cost savings could range from \$16,000 to \$80,000 annually; however, IDEM has no actual cost figures on current premiums for the additional coverage; this information is based on anecdotal data from the initial group of applicants in 2007; these costs appear to have dropped as underwriters have gained experience with this industry
318 IAC 1-4-3	Clarifies documents required for listing as a qualified inspector; no new requirements	No new costs
318 IAC 1-4-4	Clarifies that individuals are listed as qualified inspectors; no new requirements	No new costs
318 IAC 1-5-1	Repealed: provisions moved to 318 IAC 1-5-1.3 through 318 IAC 1-5-1.6 and clarified; removes the requirement to notify the local health department, IDEM, and ISDH before cleanup begins	Potential cost savings due to fewer required reports; see below
318 IAC 1-5-1.3	Clarifies initial assessment expectations: adds requirement to test property that will be decontaminated	Could result in some increased costs; however, initial testing is now current practice with most inspectors for decontaminations; not quantifiable at this time since the decision belongs to the property owner and may change as the job progresses
318 IAC 1-5-1.4	Clarifies cleanup expectations; adds simplified provisions for carpeting and porous surfaces; no new requirements	Possible reduced costs due to reduced testing; unable to quantify at this time without knowing how many cleanups will be affected
318 IAC 1-5-1.5	Clarifies final confirmation testing requirements; initial assessment testing may be used for final testing if it passes; clarifies that testing is not required for tearouts; this is current practice for most contractors but was not clearly explained in the rule; no new requirements	No new costs
318 IAC 1-5-1.6	Clarifies requirements for documenting cleanups; no new requirements	No new costs

318 IAC 1-5-2	Clarifies the final decontamination level; adds a standard for iodine that does not require testing; requirement to do final decontamination testing was moved to 318 IAC 1-5-1.5 ; clarifies that rule applies to any illegally manufactured controlled substance; no new requirements	No new costs; IDEM has not received documentation of any cleanups other than meth labs
318 IAC 1-5-3	Clarifies the requirement to clean up outside contamination; no new requirements	No new costs
318 IAC 1-5-4	Clarifies tearout requirements; explains what to do with carpeting and other porous floor coverings, subfloors, ductwork; clarifies that rooms where tearouts are done do not require final testing; no new requirements	No new costs
318 IAC 1-5-5	Repealed; requirements moved to 318 IAC 1-5-5.3	No new costs
318 IAC 1-5-5.3	Adds a decontamination procedure that is consistent with the U.S. Environmental Protection Agency's new "Voluntary Guidelines for Methamphetamine Laboratory Cleanup", August 2009	This provision will standardize cleanup procedures and is not expected to result in any increased costs
318 IAC 1-5-5.5	Adds a procedure for handling rough or porous surfaces without testing to help minimize costs	May reduce some cleanup costs but cannot be quantified at this time
318 IAC 1-5-6	Repealed; replaced by 318 IAC 1-5-6.1	See below
318 IAC 1-5-6.1	Replaces 318 IAC 1-5-6 with a simplified explanation of required samples	No new costs
318 IAC 1-5-6.2	Adds a sampling procedure consistent with the new EPA guidelines that replaces ASTM D 6661-01 and ASTM D 5756-02. This procedure eliminates carpet sampling and is not expected to increase costs of testing	No new costs
318 IAC 1-5-7	Repealed; requirement moved to 318 IAC 1-5-6.1	No new costs
318 IAC 1-5-8	Repealed; requirements moved to 318 IAC 1-5-1.5	No new costs
318 IAC 1-5-9	Standardizes the information contractors provide to property owners in the certificate of decontamination; includes the provision that qualified inspectors cannot sign off their own properties moved from 318 IAC 1-3-5	No new costs
318 IAC 1-5-9.5	Adds an explanation of how to certify disposal of a mobile home	No new costs
318 IAC 1-5-10	Repealed: provision moved to 318 IAC 1-5-1.6	No new costs
318 IAC 1-5-11	Clarifies who must retain records of cleanups; no new requirements	No new costs
318 IAC 1-6-2	Removes a requirement to notify the health department before demolition; no new requirements	Potential minor cost savings; no new costs
318 IAC 1-6-3	Corrects mailing addresses; no new requirements	No new costs
Total of quantifiable economic impacts:		No quantifiable new costs to regulated entities. Potential annual savings of \$16,900 to \$80,900 to contractors

Justification Statement of Requirement or Cost:

[318 IAC 1-5-1.3](#): Adds a requirement to test contaminated property before decontamination. Most contractors require up-front testing now to determine the actual extent of the cleaning required. While the requirement may result in increased cost for some property owners, other property owners will realize a cost savings. When the initial testing shows that the property meets the final levels without cleaning, the initial testing can be used as the final confirmation testing. When initial testing shows the contamination is limited to a portion of the property instead of the entire property, then only the part of the property that fails must be cleaned. In either case, the cost to the property owner would be reduced. The department is not aware of any way to determine if a property is actually contaminated without testing.

[318 IAC 1-5-5.3](#): Adds a decontamination procedure that is consistent with the U.S. Environmental Protection Agency's new "Voluntary Guidelines for Methamphetamine Laboratory Cleanup", August 2009.

[318 IAC 1-5-5.5](#): Adds a procedure for handling rough or porous surfaces without testing to help minimize costs.

[318 IAC 1-5-6.2](#): Adds a sampling procedure consistent with the new EPA guidelines that replaces ASTM D 6661-01 and ASTM D 5756-02. This procedure eliminates carpet sampling and is not expected to increase costs of testing.

[318 IAC 1-5-9.5](#): Adds an explanation of how to certify disposal of a mobile home. The existing rule did not specifically deal with mobile homes that have little value and are not worth cleaning. This provision is designed to adequately document the disposal for local health departments and future purchasers without requiring unnecessary work.

Regulatory Flexibility Analysis of Alternate Methods:

The following less intrusive or less costly alternative methods were incorporated into the rule:

- A. This rule reduces the scope of the article to properties that are "dwellings". The primary justification of the rule is to prevent risk to human health. IDEM is aware of no more than a handful of vehicles, storage lockers or other nondwelling properties that were cleaned up or disposed of under this article. A side effect of the existing rule was to push local health departments into requiring cleanups of vehicles and other properties that they would not normally get involved with. This rule would reduce the scope of the rule to its original intent and the original intent of the enabling statute ([IC 13-14-1-15](#)).
- B. The rule now defines "supervision by a qualified inspector" giving contractors and property owners a clearer understanding of what work property owners can do themselves. IDEM expects this definition to encourage contractors to work closely with property owners to help reduce cleanup costs.
- C. Requirement for qualified inspectors to maintain \$3 million in pollution prevention insurance coverage was dropped. The department felt this coverage was unnecessary since it is in addition to the \$1 million in professional liability insurance that was retained. IDEM is not aware of any claims against either coverage since the effective date of the rule.
- D. The rule removes requirements to notify the local health department, IDEM, and ISDH before cleanup or demolition. Few contractors have notified IDEM as required, and this has not proven to cause problems. Local health departments are notified of cleanups and demolitions in conjunction with their orders, independent of this rule. These requirements did not add to the effectiveness of the rule and would be eliminated.

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